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June 29, 2007

**VIA HAND DELIVERY**

Federal Communications Commission  
Media Bureau  
P.O. Box 358205  
Pittsburgh, PA 15251-5205


**Re: RC Technologies Corporation (FRN:0009-0417-81)**  
In the Matter of RC Technologies Corporation's  
Request for Waiver of 47 C.F.R. § 76.1204(a)(1)

Dear Madam or Sir:

RC Technologies Corporation ("RCT"), by undersigned counsel, hereby files an original and four copies of the above-referenced Request for Waiver. Also enclosed is FCC Form 159 and a check in the amount of \$1,250.00 to cover the required filing fee. A copy of this Request also is being filed in Docket 97-80 via ECFS.

Please contact the undersigned counsel if you have any questions regarding this submission.

Respectfully submitted,



Jonathan E. Allen

cc (via email): Mike Lance  
Brendan Murray  
Andrew Long

Enclosures

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
<b>RC TECHNOLOGIES CORPORATION</b>	)	CSR— _____
	)	
Request for Waiver of	)	
47 C.F.R. § 76.1204(a)(1)	)	CS Docket No. 97-80
To: Chief, Media Bureau		

**REQUEST FOR WAIVER OF SECTION 76.1204(a)(1)  
OF THE COMMISSION'S RULES**

**RC TECHNOLOGIES CORPORATION**  
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*Counsel to RC Technologies Corporation*

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**REQUEST FOR WAIVER OF SECTION 76.1204(a)(1)  
OF THE COMMISSION'S RULES**

RC Technologies Corporation ("RCT"), a provider of multi-channel video and wireless broadband services in small rural communities of Sisseton, Kranzburg and Willow Lake, South Dakota and surrounding areas, pursuant to Section 629 of the Telecommunications Act of 1996 (the "Act"),<sup>1</sup> and Sections 76.7 and 76.1207 of the Commission's Rules<sup>2</sup> respectfully requests waiver of Section 76.1204(a)(1)<sup>3</sup> to the extent set forth herein ("Waiver Request"). Specifically, RCT requests a waiver until July 1, 2012 of the "integration ban" for RCT's set-top boxes, which use removable "smart cards." Grant of this Waiver Request will enable RCT to expand and enhance its wireless MPEG-4 digital video system – the first in the country – at Sisseton and Kranzburg, to maintain existing multichannel video programming distribution ("MVPD") services at Willow Lake, and to expand services in other neighboring communities.<sup>4</sup> This service will benefit rural consumers who have little or no choice in providers of these important services.

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<sup>1</sup> 47 U.S.C. § 549.

<sup>2</sup> 47 C.F.R. §§ 76.7 and 76.1207.

<sup>3</sup> 47 C.F.R. § 76.1204(a)(1). This rule applies to multichannel video programming distributors, defined as "A person such as, but not limited to, a cable operator, a BRS/EBS provider, a direct broadcast satellite service, or a television receive only satellite program distributor, who owns or operates a multichannel video programming system." 47 C.F.R. § 76.1200(b).

<sup>4</sup> RCT serves communities including Claire City, SD; Marvin, SD; Peever, SD; New Effington, SD; Summit, SD; Veblen, SD; Wilmot, SD.

The Waiver Request will not impede Congressional or Commission efforts to help develop a competitive marketplace for navigation devices.

## **Background**

### ***Overview***

RCT was formed in 1995 as a wholly-owned subsidiary of Roberts County Telephone Cooperative Association (“RCTCA”), a cooperative that began providing telephone service in 1956 to New Effington, South Dakota and nearby rural communities. RCTCA provides local exchange and DSL service in two areas of northeast South Dakota and extreme southeast North Dakota.<sup>5</sup> In addition, as Appendix A depicts, RCT’s service territory includes portions of the Sisseton-Wahpeton Oyate Indian Reservation.<sup>6</sup>

In 2005, RCT acquired operating “wireless cable” systems comprising Broadband Radio Service (“BRS”) and Educational Broadband Service (“EBS”) spectrum in Sisseton and Kranzburg, South Dakota from North East Television, Inc. (“NETV”), a subsidiary of another rural telecommunications cooperative that had operated the systems since the early 1990s. In 2006, RCT acquired the operating Willow Lake system from NETV. These systems initially were established to provide wireless MVPD services to rural consumers who lacked access to cable television at a time before Direct Broadcast Satellite (“DBS”) services were launched. As DBS services expanded, NETV sold the systems to RCT. These acquisitions have given RCT licenses or spectrum lease rights to all available BRS and EBS spectrum at each of the Sisseton,

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<sup>5</sup> These areas qualify as “rural areas” under the Commission’s definition. See *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies To Provide Spectrum-Based Services*, Report and Order and Further Notice of Proposed Rule Making, 19 FCC Rcd 19078 (2004) at ¶¶ 11, 12. (“*Rural Order*”).

<sup>6</sup> Appendix A hereto contains a map showing the Geographic Service Areas (“GSAs”) of the Sisseton, Kranzburg and Willow Lake BRS/EBS systems, the GSAs of nearby systems operated by third parties, the Watertown BTA, the location of RCTCA’s local exchange areas, and the Sisseton-Wahpeton Oyate Indian Reservation boundary.

Kranzburg and Willow Lake sites.<sup>7</sup> When acquired, these systems included two wireless cable head-ends and three 450 MHz hardwire cable head-ends. All of the systems used analog video technology.

### ***The Analog MVPD Systems***

The Sisseton system comprises 23 BRS and EBS channels, plus eight EBS channels authorized to RCT under Special Temporary Authority (“STA”). This system currently provides video service on 19 channels to approximately 364 subscribers. The Kranzburg system comprises 21 BRS and EBS channels, plus eight EBS channels authorized to RCT under STA. This system provides video service on 19 channels to approximately 200 subscribers. The Willow Lake system comprises 22 BRS and EBS channels.<sup>8</sup> The system currently provides video service on all 19 channels to approximately 54 subscribers. RCT charges \$21.95 per month, substantially less than the subscription fees and other costs charged by DirecTV and EchoStar. In addition, RCT provides traditional coaxial cable service to subscribers in Sisseton, Kranzburg and Willow Lake.

As detailed below, RCT is finalizing construction of the first wireless MPEG-4 system in the United States to serve the Sisseton and Kranzburg areas. RCT does not currently plan to upgrade the Willow Lake system, though the success of the Sisseton and Kranzburg systems may warrant extension of the MPEG-4 system to the Willow Lake system.

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<sup>7</sup> See Appendix A. The Watertown BTA rights (BTA 464) are held by Data Truck, L.L.C. (“Data Truck”).

<sup>8</sup> RCT has applied for an STA to add eight EBS channels to the Willow Lake system. That request is pending. See FCC File No. 0002736373.

## *The Wireless MPEG-4 System*

Upon acquiring these systems, RCT surveyed residents in the service territories to determine if consumers desired additional services. The results showed pent-up demand for more video channels and high-speed wireless services throughout the footprints of the GSAs. Next, RCT solicited proposals from vendors who could design and install a system responsive to this demand. Over the last few years, RCT has completed the design, planning, financing and construction of the first wireless MPEG-4 digital video system in the United States. The public interest benefits of the system include the provision of high-quality video programming and broadband services consumers demand, the ability to leverage RCT's existing SONET network and wireless (licensed and unlicensed) spectrum assets, the low long-term cost for subscribers, opportunities to expand the service area and service offerings, competitive advantages and state-of-the-art technology.

A project involving MPEG-4 and 2.5 GHz spectrum has never been attempted, and a number of complex issues require resolution. These include converging voice, video and data services across multiple network access platforms — coaxial cable, 2.5 GHz wireless spectrum, DSL and fiber to the premises. RCT's goal is to accommodate future advanced services such as mobility and roaming. The upgrade involved more than 45 separate vendors and manufacturers from the United States, China, The Netherlands and France.<sup>9</sup> By relying on MPEG-4 technology, RCT seeks to maximize the number of channels it can offer with the higher compression ratios afforded by MPEG-4. RCT estimates that MPEG-4 would permit delivery of approximately twice as many video channels over the same spectrum as MPEG-2 technology.

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<sup>9</sup> Appendix B hereto is a presentation detailing the wireless MPEG-4 video and broadband project. RCT presented this to the Wireless Telecommunications Bureau on April 19, 2007.

In 2006, after receiving necessary state and federal aviation, environmental and tribal approvals, RCT completed construction of new towers at Sisseton and Kranzburg. RCT also upgraded fiber rings from the towers to RCT's New Effington headquarters. RCT obtained \$3.4 million in financing from the USDA's Rural Development Programs (also known as Rural Utilities Service) ("RUS") to help fund construction of the new wireless video and broadband system. In April 2007, RCT completed construction of the new MPEG-4 head-end at New Effington, South Dakota. RCT has purchased a building in Watertown, South Dakota, the largest city in the systems' footprint, which will enable customers to more readily obtain RCT's services. RCT also has entered into numerous programming contracts and retransmission consent agreements for the new programming tracks it will deliver.

As constructed for initial operation, RCT's MPEG-4 video system transmits on five pre-transition BRS and EBS channels – Channels D3, D4, E1, E2 and F1.<sup>10</sup> With respect to the Sisseton and Kranzburg systems, RCT has sought a waiver of the EBS/BRS transition rules so that, by operating under the "old" band plan, it can increase the number of high-power MPEG-4 digital video programming streams it can provide to its customers, and add high-definition and video-on-demand.<sup>11</sup> Permitting continued operations on this channel plan will help ensure that RCT can provide relatively low-cost, competitive video service by enhancing channel capacity.

Initially, RCT is offering two tiers of digital video service. For \$33.95 per month, subscribers will receive a "basic" package of 63 digital channels. For \$42.95 per month,

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<sup>10</sup> In each market, two EBS channel groups are not licensed, and the Commission has concluded "that it is premature to make available unassigned spectrum until the transition period is completed." *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165 (2004), *recon. granted in part and denied in part*, 21 FCC Rcd 5606, 5739 (2006) ("*BRS/EBS Recon Order*"). In Sisseton and Kranzburg, RCT applied for and received STA to use the eight vacant EBS channels. As discussed *infra*, RCT is using STA channels in the Kranzburg area to provide wireless broadband service, and it has plans to expand these services across the footprints of all three systems.

<sup>11</sup> See *Wireless Telecommunications Bureau Seeks Comment on Request by RC Technologies Corporation for Waiver of the Requirement to Transition to EBS/BRS Band Plan*, DA 07-2170 (rel. May 24, 2007).

subscribers can upgrade to a 73-channel “expanded basic” package of digital programming, and can purchase up to two premium channels for an additional \$10.95 per month each. Customers also can subscribe to bundles of telephone, MVPD and Internet access services at costs well below that of RCT’s competitors. Set-top boxes will cost just over \$100 each.

RCT plans provide unique, local digital television programming as well. RCT is working closely with Sisseton Wahpeton College, located in Sisseton, to develop unique local content to benefit members of the Sisseton Wahpeton Sioux Tribe and the community at large.<sup>12</sup> Later this year, RCT will promote subscribers’ safety by transmitting weather alerts and other important messages to its subscribers.

The prospect of new digital services has created much excitement in northeast South Dakota, and RCT already has a backlog of new customers, in addition to the existing video customers, that have signed up for the new digital video service. RCT is very optimistic that subscriber counts for the Sisseton and Kranzburg systems will grow substantially as the MPEG-4 digital system is deployed.<sup>13</sup>

### ***Funding from the Rural Utilities Service***

To cover the substantial costs to upgrade the Kranzburg and Sisseton MVPD systems to MPEG-4 video and wireless broadband services, RCT successfully applied for and received

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<sup>12</sup> According to its web site, the mission of Sisseton Wahpeton College “is to provide quality programs of formal instruction, meritorious research, and public service, through a collective effort by the Sisseton Wahpeton Sioux Tribe and SWC staff and faculty, sufficient to support its underlying mission of instruction and other learning opportunities in meeting the diverse and changing needs of the individual, the tribal community, and the society at large.” See <http://www.swc.tc>, visited March 29, 2007.

<sup>13</sup> In addition to the broadband services RCTCA and RCT offer via RCTCA’s DSL plant, RCT has recently added a wireless broadband service offering. Using spectrum granted pursuant to the STA on EBS channels A1, A3 and A4 in the Kranzburg GSA, in January 2007 RCT launched a commercial wireless broadband system in Milbank, South Dakota that, in a few short months, serves nearly 150 customers. RCT prices its broadband services at \$39.95 per month, \$10.00 less than the WildBlue satellite offering. RCT offers faster speeds than WildBlue. RCT plans to substantially expand its wireless broadband services throughout the areas of the Sisseton, Kranzburg and Willow Lake where RCTCA’s DSL plant does not extend. In areas where RCTCA does not provide wired local exchange service, it plans to introduce wireless Voice over IP (“VoIP”) in competition with other local exchange carriers and cable operators that offer a wired VoIP service.



funding assistance from the U.S. government. In 2004, RCT obtained a \$544,099 grant from the RUS to provide broadband service to the rural community of Corona, South Dakota, a town of approximately 120 persons. In September 2005, RCT opened a community center in Corona to allow residents to have broadband access. RCT provides an extensive curriculum of 34 courses that is made available free of charge to the public. The community center has improved the lifestyles of consumers in and around Corona. Pursuant to the RUS grant requirements, the community center's operations will be turned over to the town this September.

More recently, in 2006 as part of the upgrade of digital facilities to MPEG-4 and the addition of wireless broadband services, RUS approved financing for a low-interest loan for \$3,382,143, more than half of the \$5,971,578 budgeted for the project.<sup>14</sup> The rigorous RUS loan process is predicated on RCT's ability to comply with the extensive plans and specifications of its loan application. Among other things, loan funds were used to construct the new digital MPEG-4 head-end at New Effington and purchase related infrastructure and middleware equipment. The funds are provided as part of the five-year business plan submitted by RCT to RUS.

With its longstanding telephony services, enhanced MPEG-4 digital services and a combination of DSL and wireless broadband services, RCTCA/RCT is the only operator in rural northeast South Dakota offering consumers a wireless "triple play" of voice, MVPD and broadband services. In some areas, RCT is the only provider of terrestrial MVPD services and is the only wireless competitor to high-priced DBS services. In many other areas, RCT provides the only broadband alternative to WildBlue.

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<sup>14</sup> A copy of the Loan Agreement, dated as of May 2, 2006 has previously been submitted to the Commission in connection with RCT's request for Waiver of the EBS/BRS transition rules.

### ***RCT's Set-Top Boxes***

The system infrastructure is completely installed and all of the equipment is on site. Vendors are currently on location turning up the service. RCT has selected Irdeto to provide security for RCT's wireless network in the first deployment of MPEG-4 compression using Coship's new AnySight 600 set-top boxes.<sup>15</sup> Conditional access functions are provided by Irdeto's "smart card" technology. The set-top boxes were designed, engineered and manufactured specifically for RCT's project to handle MPEG-4 compression, a capability not available in other set-top boxes. The set-top boxes have been lab-tested with positive results, and are currently being field tested.<sup>16</sup> RCT has scheduled delivery of the first 900 set-top boxes and has committed to purchasing at least 5,000 set-top boxes over the next five years.<sup>17</sup> Marketing of the enhanced service is underway<sup>18</sup> and has been extremely well received.<sup>19</sup>

In light of the circumstances described above, the public interest benefits that will result, and the discussion below, the Commission should grant the Waiver Request to permit RCT to continue to deploy digital service using the Coship AnySight 600 set-top boxes in RCT's wireless MPEG-4 video systems and in its traditional coaxial cable systems.

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<sup>15</sup> Technical specifications for the AnySight 600 Set-Top Boxes are provided at Appendix C.

<sup>16</sup> Attached as Appendix D hereto are copies of press releases from Motorola, Inc., which manufactured and installed the MPEG-4 head-end, and Irdeto, which produced the conditional access system, announcing their respective contributions to the system. Please note that the Irdeto press release incorrectly indicates that RCT was founded in 1986 (as stated above, it was founded in 1995) and that RCT is a Cellular 2000 reseller.

<sup>17</sup> The presentation at Appendix B incorrectly indicates that the commitment was for 4,000 set-top boxes.

<sup>18</sup> An example of RCT's marketing materials is included in Appendix E hereto.

<sup>19</sup> Attached as Appendix F hereto are examples of e-mails RCT recently received from prospective subscribers expressing interest in receiving digital television services.

## Discussion

### **I. RCT SATISFIES THE LEGAL STANDARDS FOR WAIVER OF THE SET-TOP BOX INTEGRATION REQUIREMENT.**

Congress has established standards by which the Commission must waive its set-top integration rules.<sup>20</sup> Section 629(a) of the Act requires the Commission “to assure the commercial availability” of navigation devices, but requires the Commission to grant waivers for a limited time based on a showing “that such waiver is necessary to assist the development or introduction of a new or improved multichannel video programming service offered over multichannel video programming systems, technology or products.”<sup>21</sup> Any such waivers shall be granted within 90 days of any application filed pursuant to Section 629(c).<sup>22</sup> Waivers also may be granted pursuant to the Commission’s general authority to waive any of its rules “for good cause” under Section 1.3 of the Commission’s rules. As demonstrated herein, this Waiver Request satisfies both standards.

#### **A. Grant of a Waiver is Necessary to Assist the Development or Introduction of New Digital MVPD Service Under Section 629(c) of the Act and Section 76.1207.**

This Waiver Request satisfies the prerequisites of Section 629(c) of the Act and Section 76.1207 because a waiver of the “integration ban” is necessary to assist the development or introduction of RCT’s new digital MPVD service. As described above, RCT’s MPEG-4 system is the first of its kind and will enable 13 high-quality digital video programming streams to be delivered to rural consumers on a single six megahertz channel. Initial deployment will provide approximately 65 video programming streams, a significant upgrade over the 20 or so channels transmitted on the analog systems. Planning and installation of this cutting-edge technology has

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<sup>20</sup> Section 76.1204(a)(1) of the Commission’s Rules provides that “[c]ommencing on July 1, 2007, no multichannel video programming distributor subject to this section shall place in service new navigation devices for sale, lease, or use that perform both conditional access and other functions in a single integrated device.”

<sup>21</sup> 47 U.S.C. §§ 549(a), (c); *see also* 47 C.F.R. §76.1207 (permitting waiver on an “appropriate showing”).

<sup>22</sup> 47 U.S.C. §549(c).

required months of systems integration work in identifying vendors who could provide the necessary functionality for RCT's service. RCT's provision of digital video service is subject to its RUS loan and premised on the execution of a five-year business and technology plan approved by RUS.

At present, there are no digital cable subscribers to RCT's MVPD service, though all of the equipment for 5,000 subscribers has been purchased and delivered, and launch is expected as soon as ongoing field testing is complete. Waiver thus is necessary to further deployment of these services in rural South Dakota. RCT's business plan is geared toward migration of existing customers to an all-digital network no later than July 1, 2008. RCT plans to replace all analog set-top boxes for RCT's existing Sisseton and Kranzburg subscribers in the next few months; however, absent a waiver, RCT would be forced to seek further RUS approval for set-top boxes that, in all likelihood, will lack the capabilities of the Coship boxes that were specially made for RCT's network. Replacement equipment may be incompatible with the MPEG-4 system, and RCT customers would face serious delays as RCT works to implement alternatives, particularly given RCT's determination that there are no reasonable alternatives to deployment of these set-top boxes with these particular capabilities. Because RCT's deployment is tied so closely to the five-year business plan approved by RUS, RCT respectfully requests a waiver for the next five years to allow RCT to fulfill its plan.

Grant of the Waiver Request would fulfill the goals of Section 706 of the Act, which charges the Commission with the encouraging the development of advanced telecommunications capabilities.<sup>24</sup> RCT intends to use its advanced system to provide rural subscribers with cutting edge digital video and broadband access services to better compete with DBS. RCT is

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<sup>24</sup> See 47 U.S.C. § 157(a).

committed to migrating to digital facilities. RCT is launching an innovative service – the first of its kind in the country – and grant of the Waiver Request would promote Section 706’s pro-technology goals. In fact, it could contravene Section 706 to require RCT to take a technological step backward to replace its new MPEG-4-capable set-top boxes with boxes that are less spectrally efficient.

In light of the Commission’s commitment to supporting growth in the variety and quality of wireless service offerings “in all areas of the country so far as possible,” grant of the Waiver Request would promote service to rural areas.<sup>25</sup> With the inherent economic challenges in providing service to sparsely populated areas, the Commission should encourage the use of technology to promote spectral efficiency to enhance the service available to rural subscribers. RCT’s proposed use of MPEG-4 technology and broadband wireless services promotes the Commission’s stated goals.

Grant of the Waiver Request also would comport with Commission precedent. In 2004, the Commission granted, pursuant to Section 629, a permanent waiver to BellSouth to continue deploying digital cable boxes to its 40,000 subscribers using a system standard in Section 76.640(b) of the Commission’s rules that was incompatible with the Commission’s plug and play requirements.<sup>26</sup> In the *BellSouth MO&O*, the Media Bureau found that a waiver was “necessary to assist the development or introduction of a new or improved multichannel video programming service” and that compliance with Section 76.640(b) of the Commission’s rules would make it “impractical for BellSouth to deliver digital services to its subscribers and potentially eliminating

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<sup>25</sup> See *Rural Order* at ¶1.

<sup>26</sup> See *BellSouth Interactive Media Services, LLC and BellSouth Entertainment, LLC; Petition for Permanent Relief*, Memorandum Opinion and Order, 19 FCC Rcd 15607 (M.B. 2004) (“*BellSouth MO&O*”). BellSouth requested waiver of Section 76.640(b), which sets forth certain technical specifications for set-top boxes.

a competitor from the MVPD marketplace.”<sup>27</sup> Moreover, the Bureau found that because the “affected systems serve a combined total of only 40,000 subscribers, we believe that very few subscribers will be affected by the waiver.”<sup>28</sup> These rationales also support RCT’s service and the Waiver Request. Like BellSouth, RCT seeks to introduce a “new or improved” multichannel video programming service – one based on MPEG-4 technology and a 2.5 GHz distribution. Compliance with Section 76.1204 would potentially eliminate viable MPVD competition to rural subscribers. Moreover, if anything, the projected impact would be less than the impact set forth in the *BellSouth MO&O*, because RCT proposes to serve fewer than 40,000 subscribers. For these reasons, grant of the Waiver Request would be consistent with the grant of a permanent waiver to BellSouth.

**B. Good Cause Exists for Grant of a Waiver Under Sections 1.3 and 76.7.**

In addition, the Media Bureau, by delegated authority, may waive the integration ban pursuant to its “good cause” waiver standard.<sup>29</sup> In fact, the Commission has granted waivers of the integration ban on these grounds.<sup>31</sup> Such good cause exists here.

As shown above, grant of waiver is necessary for the provision of advanced digital services to rural areas. Rural areas are subject to unique economic challenges for any service provider and a waiver grant would permit RCT to provide a viable competitive broadband and digital video alternative to rural customers. Moreover, as discussed above, the set-top boxes

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<sup>27</sup> *Id.* at ¶8.

<sup>28</sup> *Id.*

<sup>29</sup> See 47 C.F.R. §§ 0.61(j), 0.241(a).

<sup>31</sup> See *Bend Cable Communications, LLC d/b/a/ BendBroadband*, DA 07-47 (rel. Jan. 10, 2007) (“*BendBroadband*”). See also *CGI Cable, Inc.*, DA 07-2010 (rel. May 4, 2007)(granting limited waiver to MVPD based on commitment to transition to all-digital network by February 17, 2009).

were manufactured especially for RCT's project due to the cutting-edge technological requirements.

Grant of the requested relief also would comport with Commission precedent. For example, in the *BendBroadband* case, the Media Bureau conditionally granted an MVPD provider's request for waiver of the ban on integrated set-top boxes pursuant to Sections 1.3 and 76.7 based on the MVPD operator's commitment to migrate to an all-digital platform by 2008.<sup>32</sup> The grant contained three conditions. First, the MVPD was required to notify all analog customers of its plans to go all digital at least six months in advance of that event and submit a sworn declaration to the Commission confirming such notice. Second, the MVPD was required to ensure that at least six months prior to migration to an all-digital format, it has in its inventory or has placed orders for enough set-top boxes to ensure that each of its customers can continue to view the provider's video programming and submit a sworn declaration to the Commission accordingly. Finally, the MVPD provider was required to submit a sworn declaration committing to this plan. RCT has similar plans to deploy an all-digital network and would agree to the substantially similar conditions as those adopted in the *BendBroadband* case should the Bureau grant the Waiver Request. RCT is currently working toward migrating its network to an all-digital platform. RCT intends to provide existing customers with replacement, digital set-top boxes within the next year. RCT is willing to make the necessary commitments to notify existing customers of the transition and to make the transition expeditiously.

In addition, the Media Bureau previously granted a conditional waiver to an MVPD to authorize deployment of set-top boxes that, like RCT's system, used a "smart card" that separated the security function from the set-top box. In *Cablevision Systems*, the Media Bureau issued a two-year waiver of Section 76.1204(a)(1) to Cablevision pursuant to Sections 1.3 and

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<sup>32</sup> See *BendBroadband* at 10.

76.7 of the Commission's rules.<sup>33</sup> The technology there is substantially similar to RCT's Irdeto solution, which provides the necessary keys for the set-top box to decrypt protected content. If any manufacturer wants to interface with the Irdeto "smart card," it would need to integrate a "smart card" reader and implement appropriate firmware. While RCT will not deploy service on the same scale as Cablevision (reportedly six million set-top boxes), other public interest factors – such as the innovative, technologically advanced digital MPEG-4 system and the rural nature of the service area – militate in favor of granting a waiver to RCT.

### **Conclusion**

The foregoing shows that unique and unusual facts and circumstances justify grant of a waiver of Section 76.1204(a)(1). RCT has demonstrated that forcing RCT to replace its brand new digital set-top boxes would have harmful effects on RCT and its customers, without any countervailing benefit. Strict adherence to Section 76.1204 would delay the introduction of competitive broadband services to a region with few available choices in broadband and digital video services. RCT has satisfied the standard for grant of a waiver of Sections 76.1204(a), and this Waiver Request should therefore be granted subject to the conditions set forth above.

Respectfully submitted,

**RC TECHNOLOGIES CORPORATION**

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June 29, 2007

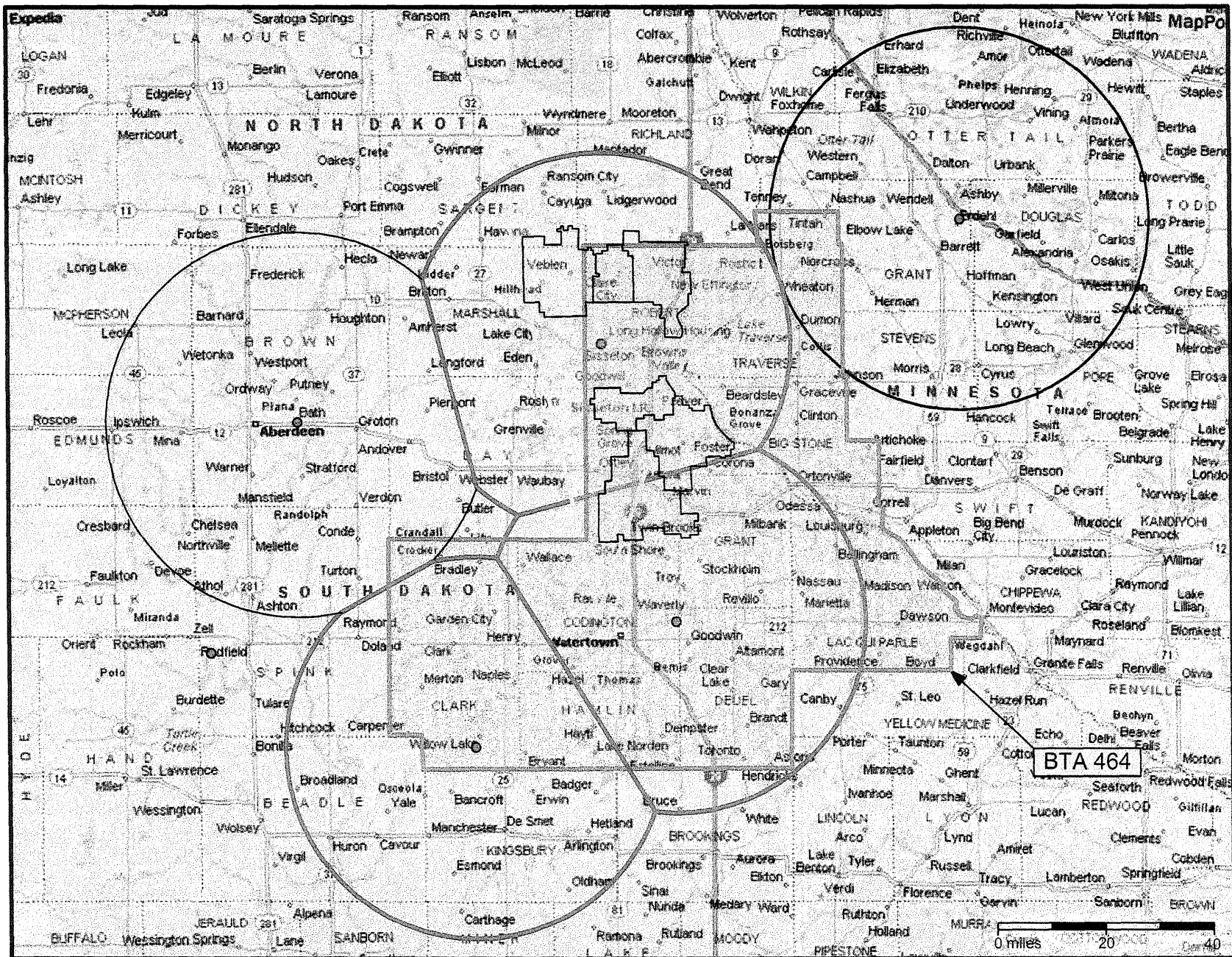
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<sup>33</sup> See *Cablevision Systems Corporation*, DA 07-48 (rel. Jan. 10, 2007).



## **APPENDIX A**

### **GSA MAP**



BTA Boundary



Serving Area



RCTC/ARC Com Exchange



Indian Reservation



RC Com BRS Serving Area



Tower Location

RC Communications  
Tower Serving Areas Map